

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

JERARD DAVIS,

Plaintiff,

vs.

Case No. CIV-17-217-RAW-SPS

RAYMOND GLORIA, ET AL.,

Defendants.

**DEFENDANTS' APPLICATION FOR ORDER DIRECTING
PREPARATION OF MARTINEZ REPORT AND HOLDING IN
ABEYANCE/SET DEADLINE FOR ANSWER AND/OR DISPOSITIVE
MOTIONS**

COME NOW Defendants Crowe, Quiroz and Gloria by and through their attorney of record Darrell L. Moore, OBA 6332 of J. Ralph Moore, P.C., hereby making application to the Court for an Order holding in abeyance Defendants' time to Answer, setting an alternate deadline for filing an answer and/or dispositive motions, and, requiring the preparation and submission of a Special Report. In support of this application, Defendants state as follows:

1. Plaintiff's complaint was filed with this Court pursuant to 42 U.S.C. § 1983. Plaintiff Jerard Davis, ODOC# 688165 is a person in the custody of the Oklahoma Department of Corrections and is presently confined in a penal institution in the State of Oklahoma. Plaintiff alleges in his complaint that Defendants violated his civil rights. Specifically, Plaintiff asserts that Defendants used excessive force in violation of his Eighth Amendment rights.

2. The Tenth Circuit Court of Appeals, in Martinez v. Aaron, 570 F.2d 317 (10th Cir. 1978), held that in an inmate litigation case it was an appropriate step for the District Court to Order prison officials to prepare an administrative record reviewing a plaintiff's allegations so as to enable the Court to decide preliminary issues. Several years later, in Hall v. Bellmon, 935 F.2d 1106, 1109 (10th Cir. 1991), the Tenth Circuit Court of Appeals stated: "When the pro se plaintiff is a prisoner, a court-authorized investigation and report by prison officials (referred to as a *Martinez* report) is not only proper, but may be necessary to develop a record sufficient to ascertain whether there are any factual or legal bases for the prisoner's claims."


3. CoreCivic (formerly known as Corrections Corporation of America, Inc.) owns and operates the Davis Correctional Facility, Holdenville, Oklahoma. Defendants Crowe, Quiroz and Gloria are employed by CoreCivic. The Oklahoma Department of Corrections and CoreCivic, have contracted to house prisoners at the medium security/maximum security prison facility named "Davis Correctional Facility."

4. Defendants request the Court issue an Order directing officials responsible for the operation of Davis Correctional Facility to prepare an administrative report for submission to the Court, consistent with the Martinez and Hall holdings. Defendants request authority to obtain and review all pertinent records including, but not limited to medical and psychiatric records. Defendants further request the Court issue an Order holding in abeyance further discovery and

their time to file an Answer and/or file dispositive motions until such time as a Special Report has been prepared and filed with the Court.

WHEREFORE, premises considered, Defendants hereby request the Court enter an Order requiring and authorizing Davis Correctional Facility prison officials to prepare and file a Special Report; and, an Order setting deadlines for the filing of an answer and/or dispositive motion; and, for any and all further relief to which the Defendants may be entitled.

Respectfully submitted,
Defendants Crowe, Quiroz and Gloria

BY: 

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Certificate of Service

☐ I hereby certify that on September 5, 2017, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants: (insert names)

☒ I hereby certify that on September 5, 2017, I served the attached document by regular US Mail on the following, who are not registered participants of the ECF System:

Jerard Davis, ODOC# 688165
Davis Correctional Facility
6888 E 133rd Rd
Holdenville, OK 74848



DARRELL L. MOORE